



# TOWN OF SHIRLEY RESIDENTIAL & COMMERCIAL PERMITTING GUIDEBOOK

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**Prepared by the Montachusett Regional Planning Commission (MRPC)  
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**December 2017**

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## CONTACT INFORMATION

**TOWN OF SHIRLEY**  
**TOWN OFFICES**  
**7 Keady Way**  
**Shirley, MA 01464**  
[www.shirley-ma.gov](http://www.shirley-ma.gov)

DEPARTMENT	LOCATION	PHONE NUMBER	EMAIL
Assessors	Town Hall	(978)425-2600 x220	<a href="mailto:Assessors@shirley-ma.gov">Assessors@shirley-ma.gov</a>
Board of Health	Town Hall	(978)425-2600 x260	<a href="mailto:Health@shirley-ma.gov">Health@shirley-ma.gov</a>
Board of Selectmen	Town Hall	(978)425-2600 x200	<a href="mailto:Selectmen@shirley-ma.gov">Selectmen@shirley-ma.gov</a>
Building Commissioner	Town Hall	(978)425-2600 x260	<a href="mailto:Building@shirley-ma.gov">Building@shirley-ma.gov</a>
Conservation Commission	Town Hall	(978)425-2600 x245	<a href="mailto:Conservation@shirley-ma.gov">Conservation@shirley-ma.gov</a>
Department of Public Works	158 Great Rd.	(978)425-2628	<a href="mailto:pcallahan@shirley-ma.gov">pcallahan@shirley-ma.gov</a>
Fire Department	8 Leominster Rd	(978)423-4334	<a href="mailto:sfd35chief@yahoo.com">sfd35chief@yahoo.com</a>
Planning Board	Town Hall	(978)425-2600 x240	<a href="mailto:Planning@shirley-ma.gov">Planning@shirley-ma.gov</a>
Police Department	11 Keady Way	(978)425-2642	<a href="mailto:pcallahan@shirley-ma.gov">pcallahan@shirley-ma.gov</a> <a href="mailto:ssantiago@shirley-mapd.org">ssantiago@shirley-mapd.org</a>
Sewer Commission	Town Hall	(978)425-2600 x235	<a href="mailto:Sewer@shirley-ma.gov">Sewer@shirley-ma.gov</a>
Tax Collector	Town Hall	(978)425-2600 x210	<a href="mailto:Tax@shirley-ma.gov">Tax@shirley-ma.gov</a>
Town Administrator	Town Hall	(978)425-2600 x121	<a href="mailto:Selectmen@shirley-ma.gov">Selectmen@shirley-ma.gov</a>
Town Clerk	Town Hall	(978)425-2600 x205	<a href="mailto:Clerk@shirley-ma.gov">Clerk@shirley-ma.gov</a>
Shirley Water District	124 Ayer Rd.	(978)425-2245	<a href="mailto:brian@shirleywater.com">brian@shirleywater.com</a> <a href="http://www.shirleywater.com/">www.shirleywater.com/</a>
Zoning Board of Appeals	Town Hall	(978)425-2600 x255	<a href="mailto:ZBA@shirley-ma.gov">ZBA@shirley-ma.gov</a>

## PURPOSE

The purpose of this Residential and Commercial Development Permitting Guidebook is to assist homeowners, property and business owners, developers, brokers and contractors who want to build or renovate within the Town of Shirley. The intent is to facilitate permitting by providing clear, easy-to-follow procedures that outline the permit review process. It is an attempt to highlight the planning necessary, the permitting required and the options available to individuals and developers who wish to consider a project within the Town. Proper planning will increase the likelihood that an applicant's project and design will be accepted, and reduce the risk that significant, expensive, and time-consuming changes are needed. This Guidebook is not intended to replace the more specific rules and regulations that each Board, Commission or Department is charged with promulgating and enforcing.

## INTRODUCTION

In recognition of the need to protect the health, welfare, safety and aesthetics of our community, Shirley has adopted and implemented protective zoning bylaws, subdivision rules and regulations, sewer use rules and regulations, soil removal regulations, and a non-zoning wetlands bylaw. The local bylaws and rules and regulations are based on state laws which generally set parameters or minimums and then allow individual communities the discretion to enhance these to suit local conditions and objectives. One exception is the Building Code, which is the same throughout the State, but which local governments are required to administer and enforce. Some of the Departments, Boards and Commissions charged with adopting and/or enforcing these laws, bylaws and rules and regulations are:

- **Building Department**
- **Planning Board**
- **Conservation Commission**
- **Board of Health**
- **Zoning Board of Appeals**
- **Board of Selectmen**
- **Sewer Commission**

In general, if your project involves a new residential structure or addition on an existing lot or structure, or a new use on a lot, then the Building Department should be your first point of contact. If your project includes the subdivision of land, or a new or expanded commercial facility, you should contact the Planning Board first. In most cases, one or more other Boards, Commissions or Departments, including Board of Health, Conservation Commission, Board of Selectmen, Sewer Commission and Zoning Board of Appeals may also need to be involved. If you wish to research the bylaws and rules and regulations on your own prior to beginning the permitting process, documents that you may find useful include:

- [Shirley Protective Zoning Bylaws and Zoning Map](#)
- [Shirley General Bylaws](#)
- [Planning Board Subdivision Rules and Regulations](#)
- [Sewer Use Rules & Regulations](#)
- [Massachusetts Wetlands Protection Act](#)
- [Non-Zoning Wetlands Bylaw](#).

These documents can all be found on the Town's webpage at <http://www.shirley-ma.gov/pages/index>.

Some of the factors to consider include the existing zoning district (which regulates the allowed uses, location of buildings, dimensional requirements, etc.); impacts on wetlands, floodplains or streams; water supply and waste disposal; parking and traffic impacts; stormwater management; and lighting; just to name a few. There are also requirements for minimizing temporary impacts during construction. This Guidebook offers a general introduction to these factors as well as the processes and procedures applicants need to follow and the Boards, Commissions or Departments responsible for each. It is not meant to replace the official (and more detailed) documents mentioned above.

The Town makes every effort to minimize the processing time for permits. However, processing permits does take time and some permits have specific state regulations regarding process and time frames. As with anything, proper planning, research and communication with the Town will help the applicant anticipate and avoid potential problems and delays. We encourage the applicant to contact the Town as early in the planning process as possible. If the project is complex and involved, the applicant may consider hiring outside professionals such as architects, engineers, or other consultants for assistance. The applicant will most likely find that hiring qualified professionals experienced in successfully processing permits will save time and money in the long run.

**If you are not sure if the work you are planning requires any kind of permit, it is better to check with someone at the Town offices first. Please refer to the permit and use matrices in Appendix B and C for further information about which Town departments or boards issue permits and which uses are allowed in which districts.**

**Disclaimer:**

**The Protective Zoning Bylaw, General Bylaws, Subdivision Rules and Regulations, Non-Zoning Wetlands Bylaw and Sewer Use Rules & Regulations of the Town of Shirley, as applicable, take precedence over any information contained within this guidebook or any conflict between them.**

## FREQUENTLY ASKED QUESTIONS (FAQ)

This section is designed to answer frequently asked questions about the permitting process in the Town of Shirley. Each question is followed by a short answer and directs the reader to a section that follows in the Guidebook which outlines the procedure in more detail.

**Q.** How do I know if a permit or a review is needed?

**A.** Generally, remodeling or improvements to an existing building only require a building permit. Town staff will assist applicants in coordinating procedures for all projects that require more than just a building permit. Whatever the requirements of a project, it is useful to consult with Town personnel early in the project planning process. **Building Department Section.**

**Q.** What if I just want to put up a fence?

**A.** Section 16 of the [Shirley Protective Zoning Bylaws<sup>1</sup>](#) requires a Fence and/or Building Permit before construction of a permanent manmade or vegetated fence or wall. Some fences may require Conservation Commission consultation if the fence could be a barrier to wildlife or is near a wetland resource area.

**Q.** What if I want to put in a pool or build a shed?

**A.** Consultation with the Building Commissioner is essential. Some pools may require an electrical and/or plumbing permit as well as a building permit. Sheds of a certain size may be exempt from a building permit; check with the Building Department. Any new structures in your yard may require review by the Conservation Commission if your property has or is near any wetland resource areas. **Building Department Section, Conservation Commission Section.**

**Q.** Does a building permit expire?

**A.** Work must begin within six months of the date all permits are issued. If you are actively working on a project, the permit does not expire. However, for cause, one or more extensions of time, for periods not exceeding six months each, may be requested in writing, and may or may not be granted in writing by the Building Commissioner.

**Q.** Can I be denied a building permit?

**A.** The Building Commissioner has the authority to deny a building permit on the basis of noncompliance with the State Building Code and/or the zoning or general bylaws. The applicant has a right to appeal this decision to the Zoning Board of Appeals (ZBA) within 30 days of the Building Commissioner's decision. **Zoning Board of Appeals Section.**

**Q.** What is a Certificate of Occupancy and when is it issued?

**A.** Once a project is complete, the Building Commissioner will inspect the final product and issue a Certificate of Occupancy, provided all the work has been completed in accordance with the provisions of the approved permits and the applicable codes for which a permit is required.

**Q.** What if I want to construct a new home or business?

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<sup>1</sup> <https://www.shirley-ma.gov/sites/shirleyma/files/uploads/bylaws2015.pdf>



**A.** New construction may require one or more permits depending on the size, location, and proposed use. Your first step should be to consult the Building Department and review the Town of Shirley's Protective Zoning Bylaw and General Bylaw to determine whether your project is allowed in that zoning district. The Bylaws specify minimum lot area, building coverage, and setback requirements. Required permits may include a special permit, site plan review, building permit, Conservation Commission review and/or Board of Health Review. **Building Department Section, Planning Board Section, Conservation Commission Section, Appendices A, B and C.**

**Q.** What should I do if I wish to use my property in a manner not allowed for in the bylaws?

**A.** Exceptions for uses not specified in the Bylaw require a variance from the Zoning Board of Appeals. **Zoning Board of Appeals Section.**

**Q.** What if I want to expand my home or business and the expansion will be close to the property lines?

**A.** The Town of Shirley Protective Zoning Bylaws require specific setbacks for new construction and additions. If your project does not conform to the Zoning Bylaw's dimensional requirements, you may request a variance, or, under certain circumstances, a special permit from the ZBA. **Zoning Board of Appeals, Shirley's Protective Zoning Bylaw.**

**Q.** Can I take down trees on my property without a permit?

**A.** If a tree is on the roadside, it is likely in the right-of-way of the Town's road and consultation with the Department of Public Works should be completed. If the tree(s) happen to be in the right-of-way of either Center Road or Parker Road then a hearing with the Board of Selectmen is required under the Scenic Roads Act before the tree(s) can be removed.

If you are removing many trees on your property, you may be required to file a Forest Cutting Plan with the State. In addition, removing trees in wetland resource areas needs to be reviewed by the Conservation Commission. **Board of Selectmen Section and Conservation Commission Section.**

**Q.** What if I wish to subdivide my land?

**A.** The Planning Board regulates the creation of new lots in the Town of Shirley. You will need to go through the Approval Not Required process for a simple division of land or lot line changes. If it's a new subdivision development with many houses, you need to go through the subdivision process with the Planning Board. **Planning Board Section.**

**Q.** What approvals are needed if my project requires a new or expanded septic system?

**A.** The Board of Health and Nashoba Associated Board of Health Agent issue Title 5 septic system approvals. **Board of Health Section**

**Q.** What if I am doing work near a stream or wetland?

**A.** The Town of Shirley Conservation Commission regulates construction near wetlands, streams and other waterbodies. **Conservation Commission Section.**

**Q.** What if I wish to perform work in one of Shirley's Historic Districts?

- A. Shirley has three historic districts on the National Register of Historic Places: the Shirley Center Historic District, the Shirley Village Historic District, and the Shirley Shaker Village. Work in any three of the Districts that uses or requires any type of state or federal funding or permits is required to submit the proposed project to the [Massachusetts Historical Commission](#)<sup>2</sup> for review. The Shirley Center Historic District is also regulated by the Shirley Center Historic District Commission through the provisions of the Historic District Act. The Shirley Center Historic District was established in 1972 and includes 41 properties on Center, Parker, Brown, and Horse Pond Roads leading from the Center Common. An application for a Certificate of Appropriateness submitted to the Historic District Commission by a project proponent will be decided upon within 45 days. The Commission will consider the appropriateness of proposed exterior features, wherever such exterior features are subject to public view from a public street or way. A map of the Center Historic District can be found at the end of the [General Bylaws](#)<sup>3</sup> or by visiting the Town Clerk's office.
- Q. Can I tear down structures and items such as a fence or stone walls on my property without a permit?
- A. Shirley has a Demolition Delay Bylaw contained in the [General Bylaws](#) that applies to historically significant buildings and structures. Whenever a property owner would like to demolish any building or structure, they must apply for a Demolition Permit from the Building Department. The Building Commissioner will forward the Demolition Application to the Shirley Historical Commission and the Planning Board for review to determine if the property falls under the Demolition Delay Bylaw. If the demolition involves a stone wall on one of the Scenic Roads in Shirley, then review by the Board of Selectmen and the Director of the Department of Public Works is required under the Scenic Roads Act. A public hearing will be scheduled and a decision will be made.
- Q. How many animals can I have on my property?
- A. Shirley has Livestock Regulations administered by the Board of Health and it is essential for residents wishing to keep livestock to consult with the Board of Health. Generally, having one or more large animals, such as cattle, goats, horses, etc. or ten or more smaller animals such as poultry, game birds, rabbits, etc. requires a livestock permit. The Board of Health will confirm the location on the property where the animals will be kept and what the manure management plan will be. These steps are necessary to ensure public safety, health, and protection of any wells, septic systems, or wetlands in and around the property in question.  
**Board of Health Section.**
- Q. Who should I contact for more info?
- A. The **CONTACT INFORMATION** section of this guide book has a list of Town Officials phone numbers and emails if more information is needed.
- Q. How do I apply for a permit?
- A. Most application forms are located online at the Town's website: <https://www.shirley-ma.gov/>. Forms are also available in each department's office during normal business hours.

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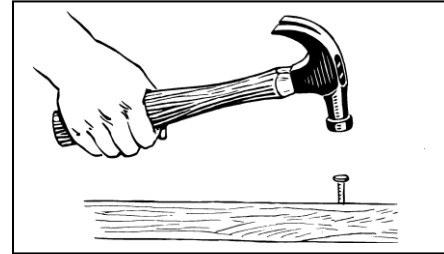
<sup>2</sup> <https://www.sec.state.ma.us/mhc/>

<sup>3</sup> [https://www.shirley-ma.gov/sites/shirleyma/files/uploads/general\\_town\\_bylaws.pdf](https://www.shirley-ma.gov/sites/shirleyma/files/uploads/general_town_bylaws.pdf)

## DEPARTMENTS, BOARDS, AND COMMISSIONS

### Building Department

The Building Commissioner serves as the Zoning Enforcement Officer and reviews project plans for compliance with [Shirley's Protective Zoning Bylaws](https://www.shirley-ma.gov/sites/shirleyma/files/uploads/bylaws2015.pdf) <sup>4</sup>, [Shirley's General Bylaws](https://www.shirley-ma.gov/sites/shirleyma/files/uploads/general_town_bylaws.pdf) <sup>5</sup>, [Massachusetts Building Codes](https://www.mass.gov/ma-state-building-code-780-cmr) <sup>6</sup>, and the [Architectural Access Board](https://www.mass.gov/orgs/architectural-access-board) <sup>7</sup> relating to the inspection, materials, construction, demolition, alteration, repair, height, area, location and use of land, buildings and other structures within the Town. Permits are required for virtually all construction projects, including, but not limited to roofing, siding, pools, fencing, pellet/wood stoves and accessory buildings of 200 square feet or more. For advice regarding compliance with zoning bylaws and for permit applications, please contact the Building Commissioner. Building permit applications can be found online at [www.shirley-ma.gov](http://www.shirley-ma.gov), by clicking the links below, or in person in the Building Department office, during office hours.



Any application for a building or use permit or a certificate of occupancy shall be accompanied by a plot plan in triplicate, accurately drawn to a scale of one inch = forty feet. In the case of a building or use permit limited to interior improvements to an existing building or structure, a plot plan shall not be required. See the Zoning Bylaws Section 2.6.2 for requirements of a building permit plot plan. This approval precedes other approvals to ensure that both the lot and structure conform to the Shirley Protective Zoning Bylaws. Non-conformance with the Zoning Bylaws may require a hearing before the Zoning Board of Appeals to obtain a special permit and/or variance prior to obtaining a building permit. Certain projects and uses may require additional permits from other Town Boards, Commissions or Departments. It is recommended that a pre-submission discussion occur with the Building Commissioner before applying for any

#### BUILDING DEPARTMENT APPLICATIONS

<https://www.shirley-ma.gov/inspection-services/pages/forms-permits>

[BUILDING PERMIT APPLICATION – 1 OR 2 FAMILY](#)

[SHEET METAL PERMIT APPLICATION](#)

[BUILDING PERMIT APPLICATION – OTHER THAN 1 OR 2 FAMILY](#)

[USE PERMIT APPLICATION](#)

[ELECTRICAL PERMIT APPLICATION](#)

[TRENCH PERMIT APPLICATION](#)

[GAS PERMIT APPLICATION](#)

[PLUMBING PERMIT APPLICATION](#)

[MECHANICAL PERMIT APPLICATION](#)

[BUILDING APPLICATION CHECKLIST](#)

<sup>4</sup> <https://www.shirley-ma.gov/sites/shirleyma/files/uploads/bylaws2015.pdf>

<sup>5</sup> [https://www.shirley-ma.gov/sites/shirleyma/files/uploads/general\\_town\\_bylaws.pdf](https://www.shirley-ma.gov/sites/shirleyma/files/uploads/general_town_bylaws.pdf)

<sup>6</sup> <https://www.mass.gov/ma-state-building-code-780-cmr>

<sup>7</sup> <https://www.mass.gov/orgs/architectural-access-board>

permits to ensure the correct process is followed. In discussions with the Building Commissioner you will want to ask:

1) Which sections of the Protective Zoning Bylaws apply?

- In which Zoning District is the project located?
- Is the project allowed by right or does it require a Site Plan Review and/or a Special Permit?
- Is the use, structure or lot nonconforming?
- Is the project located within the Water Supply and Wellhead Protection Overlay Districts?
- Is the project located within a [flood zone](#)<sup>8</sup>?
- What site design criteria apply to the project (landscaping, heights, signage, etc.)

**SHIRLEY ZONING DISTRICTS**

R-R: Rural Residential  
 R-1: Residential-1  
 R-2: Residential-2  
 R-3: Residential-3  
 SV: Shirley Village Business District  
 NSV: North Shirley Village Business District  
 GRW: Great Road West Mixed-Use District  
 MUD: Mixed-Use District  
 LRC: Lancaster Road Commercial  
 I: Industrial

2) Do the Shirley Subdivision Regulations apply?

- Are any new lots or roads being created?
- Are any existing property boundaries being changed?

3) Does the Wetlands Protection Act and/or Shirley Non-Zoning Wetlands Bylaw apply?

- Is the project located in or within 100 feet of a stream bank, wetlands vegetation, land under water, water body, or land subject to flooding?
- Is the project located within 200 feet of any stream, river, creek, or brook that runs year-round?

4) Are related development permits needed?

- Will the project need septic and water?
- Is the project located on a state highway or will it have access onto a state highway?
- Will hazardous materials be stored or used on the site?
- Will the property be logged?
- Will the project trigger any of the Massachusetts Environmental Protection Act ([MEPA thresholds](#))<sup>9</sup>?
- Will any street trees or stone walls be removed on a Scenic Road?

Construction or work for which a permit is required is subject to inspection by the Building Commissioner and other inspectors within the Town's jurisdiction, such as electrical and plumbing, stormwater, wetlands, and/or roadways. Such construction or work shall remain accessible and exposed for inspection purposes until completed.

<sup>8</sup> <https://msc.fema.gov/portal/>

<sup>9</sup> <http://www.mass.gov/eea/agencies/mepa/about-mepa/statute-and-regulations/11-03-review-thresholds.html>

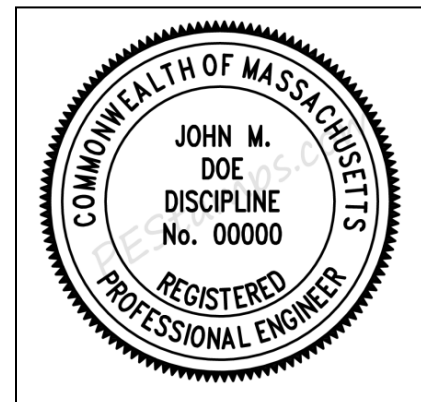
In order to be in compliance with the Town's Zoning Bylaws, most businesses (even home-based businesses) need to obtain a Use Permit from the Building Department. Once the Use Permit is obtained, the business owner can obtain a Business Certificate from the Town Clerk's office.

## Planning Board

The Planning Board plays a vital role in the development patterns of a municipality by planning for its future and overseeing its growth. Shirley's Planning Board is an active five-member elected Board whose overall goal is to oversee the development of the community, while encouraging preservation of natural landscapes and important land resources throughout the permitting and construction processes. The Planning Board's role in development is to review and approve the subdivision of land, site plans, certain special permits, and the removal or alteration of trees and stone walls within the Town's right-of-way along designated Scenic Roads. The Planning Board is governed by local, state, and federal statutes regulating the development of land. It must ensure that each project meets the spirit and intent of the Shirley Protective Zoning Bylaws, General Bylaws and Rules and Regulations of the Planning Board, as well as state and federal laws, and the Town's Master Plan.

Planning boards must ensure that all procedural requirements are strictly followed to provide each applicant with the due process afforded them by the laws and the Constitution. Furthermore, all Planning Board permitting actions must be reasonable and supported by the information provided to the Board by the applicant and other interested parties. It is therefore important for applicants to ensure that the Planning Board receives all information pertinent to a proposed project. The Planning Board strongly recommends preliminary discussions with the Building Commissioner, Planning Board staff and/or Board members for guidance on any project that you may want to develop in Shirley. All plans which show any lot line changes shall also be submitted in a digital format acceptable to the Planning Board and the Assessor's Office.

Once a project is formally submitted to the Planning Board, there is an application fee and possibly a review fee. The review fee is regulated by [M.G.L. Ch. 44, Section 53G<sup>10</sup>](https://malegislature.gov/Laws/GeneralLaws/PartI/TitleVII/Chapter44/Section53G), and must be paid by the applicant if the Planning Board needs to retain an engineering firm, landscape architect, or other consultant to advise on traffic, drainage, construction standards and designs, and any other engineering-related or technical matters. Applicants are also responsible for legal advertising costs, recording fees, and other incidental costs.



## Approval Not Required

There are generally two methods by which land can be divided. One method is known as an Approval Not Required (ANR) plan. This applies to plans that simply adjust lot lines between abutting properties through sale or exchange or creating new building lots on an existing street if the lots have the required area and frontage and have adequate access. This is a simple process that does not require a public hearing and must be completed within 21 days of submittal to the Planning Board. Endorsement of the ANR Plan by the Planning Board shall not be deemed to constitute any determination of compliance with other

<sup>10</sup> <https://malegislature.gov/Laws/GeneralLaws/PartI/TitleVII/Chapter44/Section53G>

requirements of the Shirley Protective Zoning Bylaw or any other applicable law. Click [here](#)<sup>11</sup> for the ANR Application

### Subdivision Control

The other method of land division is a process required under the Subdivision Control Law ([MGL Ch. 41, Sections 81K-81GG](#)<sup>12</sup>) and is a formal procedure requiring public hearings and abutter notifications. This process is required if the project includes the construction of new streets as well as new building lots. It requires a careful analysis of construction standards, traffic patterns, drainage, etc. Any action that requires changing lot lines, under either process, requires a plan that must be prepared by a professional surveyor and/or engineer. The subdivision process requires much more detailed information on many plan sheets, while the ANR process requires only a single sheet. There are two types of submission types in the subdivision of land: a Preliminary Plan and a Definitive Plan.

A Preliminary Plan of a subdivision may be submitted and, in the case of nonresidential subdivisions, must be submitted by the applicant to the Planning Board. The Planning Board will forward the application packet to the Board of Health and the Conservation Commission for comments relative to the overall concept of the plan and to specific concerns regarding either the overall site or specific lots and ways shown on the plan. The submission of such a Preliminary Plan shall be made on [Form B, Application for Approval of a Preliminary Plan](#)<sup>13</sup>. A Preliminary Plan will provide the means for the applicant, the Planning Board, municipal agencies, and owners of property abutting the proposed subdivision to discuss and clarify any of the problems of such a subdivision before a Definitive Plan is prepared. Therefore, it is strongly recommended that a Preliminary Plan be filed in every case. For details on submission requirements, see Section 3.1.2 of the [Shirley Subdivision Rules & Regulations](#)<sup>14</sup>

The Planning Board has forty-five (45) days to issue a decision on the Preliminary Plan, with or without suggested modifications or with modifications agreed to by the person submitting such plan or disapprove such plan with a detailed, written statement of the reasons for such disapproval. In the event that the Planning Board approves such plan, this approval does not constitute approval of the subdivision but does facilitate the procedure for securing final approval of the Definitive Plan. A Preliminary Plan is not recorded at the Registry of Deeds.



A Definitive Plan may be filed with or without a Preliminary Plan if it is a residential subdivision. If filed after a Preliminary Plan approval, the Planning Board must make a decision on the Definitive Plan within 90 days of submittal; without a Preliminary Plan the decision must be made within 135 days of submittal. A Definitive Plan must contain all the information required in the Shirley Subdivision Rules & Regulations Section 3.2 and comply with Section 4.0 Design

<sup>11</sup> [https://www.shirley-ma.gov/sites/shirleyma/files/uploads/application\\_for\\_endorsement\\_of\\_plan\\_not\\_requiring\\_approval.pdf](https://www.shirley-ma.gov/sites/shirleyma/files/uploads/application_for_endorsement_of_plan_not_requiring_approval.pdf)

<sup>12</sup> <https://malegislature.gov/Laws/GeneralLaws/PartI/TitleVII/Chapter41/Section81K>

<sup>13</sup> [https://www.shirley-ma.gov/sites/shirleyma/files/uploads/application\\_for\\_approval\\_of\\_preliminary\\_plan.pdf](https://www.shirley-ma.gov/sites/shirleyma/files/uploads/application_for_approval_of_preliminary_plan.pdf)

<sup>14</sup> <https://www.shirley-ma.gov/sites/shirleyma/files/uploads/sub.pdf>

Guidelines to be considered a complete application. Submission of the Definitive Plan must be made on [Form C, Application for Approval of Definitive Plan](#)<sup>15</sup>. The application packet must be submitted to the Board of Health in addition to the Planning Board. Within 45 days of submission, the Board of Health will report their findings to the Planning Board verifying suitability of lots for septic and other public health concerns. If the proposed subdivision requires tie-in to the sewer system, approval from the Sewer Commission must be obtained. Other Town Boards/Commissions/Departments are required to comment to the Planning Board on the application. A public hearing is set and abutters are notified of the application and public hearing date. Once a decision is made by the Planning Board, the plan and the decision require recording at the Registry of Deeds within six months of the decision (see Process Section for specifics). Certified abutter's lists can be obtained from the Assessor's Office by submitting a form available in that office. To modify an approved Definitive Plan, click [here](#)<sup>16</sup> for the application.

### Low Impact Development (LID)

LID is an option for developers when creating a subdivision on a parcel of more than 10 acres. The purpose of LID is to:

- Preserve and enhance Shirley's rural character.
- Encourage creative, environmentally sensitive design in residential developments.
- Encourage a more efficient form of development that consumes less open land and protects existing topography and natural features better than a conventional or grid subdivision.
- Protect open space, forestry land, wildlife habitat and corridors, wetlands and water resources, and historical and archeological resources.
- Develop in a manner consistent with the goals of the Shirley Master Plan.
- Minimize the total amount of disturbance on the site.

Approved through the special permit process by the Planning Board, LID is allowed in the R-R, R-1 and R-2 zoning districts and must contain a minimum of six (6) lots for single family dwellings. (See Section 4.2A of the [Shirley Protective Zoning Bylaws](#)<sup>17</sup> for details)

#### EXAMPLES OF USES REQUIRING A SPECIAL PERMIT FROM PLANNING BOARD (NOT a complete list)

Assisted living facility/nursing home	Veterinary Clinic
Low Impact Development	Multifamily housing
Gas Station	Grocery Store or Supermarket
Sale of automobiles & trucks	Contractor's Yard
Telecommunication Towers	Child Care/Day Care Facility
Manufacturing Facility	Restaurant
Shared Residential Driveway	Hotel/Inn

<sup>15</sup> [https://www.shirley-ma.gov/sites/shirleyma/files/uploads/application\\_for\\_approval\\_of\\_definitive\\_plan.pdf](https://www.shirley-ma.gov/sites/shirleyma/files/uploads/application_for_approval_of_definitive_plan.pdf)

<sup>16</sup> [https://www.shirley-ma.gov/sites/shirleyma/files/uploads/application\\_for\\_subdivision\\_modification.pdf](https://www.shirley-ma.gov/sites/shirleyma/files/uploads/application_for_subdivision_modification.pdf)

<sup>17</sup> <https://www.shirley-ma.gov/sites/shirleyma/files/uploads/bylaws2015.pdf>



## Special Permit

The Planning Board also acts as the Special Permit Granting Authority (SPGA) for some uses listed in Sections 3 and 4 of the Shirley Protective Zoning Bylaws (see Appendix C, Use Matrix). A special permit is a discretionary land use approval that a property owner is required to obtain prior to undertaking certain activities on their property. As a discretionary land use approval, the request for a special permit may be denied for projects that the SPGA anticipates will adversely impact the community. Alternatively, the SPGA may approve a request for a special permit subject to conditions and limitations to prevent or mitigate potential adverse impacts of the proposed project. The Shirley Protective Zoning Bylaws include special permit criteria used by the SPGA to objectively evaluate whether the proposed activity requiring a special permit will have adverse impacts on the neighborhood or the town. The SPGA must abide by the procedures of [M.G.L. c.40A, Section 9](https://malegislature.gov/Laws/GeneralLaws/PartI/TitleVII/Chapter40A/Section9)<sup>18</sup> and [Section 11](https://malegislature.gov/Laws/GeneralLaws/PartI/TitleVII/Chapter40A/Section11)<sup>19</sup> of the Massachusetts Zoning Act with regard to the process for hearing and granting a special permit (see Process Section for specific timelines). Click [here](https://www.shirley-ma.gov/sites/shirleyma/files/uploads/special_permit_and_request_for_public_hearing.pdf)<sup>20</sup> for Special Permit Application.

## Site Plan Review

Developments of commercial, industrial, institutional, mixed use, or multi-family uses, together with their associated outdoor areas for vehicular movement and parking, accommodate varying degrees of open and continuous use by the general public. Due to their physical and operational characteristics, these developments may affect neighboring properties and adjacent sidewalks and streets. It is in the Town of Shirley's interest to promote functional and aesthetic design, construction, and maintenance of such developments and to minimize any harmful effects on surrounding areas. For these reasons, such projects require a Site Plan Review. The intent of Site Plan Review is to regulate rather than prohibit uses through reasonable conditions that may be required by the Planning Board including, but not limited to, design and location of buildings, signs, open space, landscaping, parking areas, access and egress, drainage, sewage, water supply, and fire safety.

### **SITE PLAN REVIEW CRITERIA**

*The Planning Board will consider the following factors:*

- ☐ *Visual compatibility with the surrounding area.*
- ☐ *Visual impact of parking on views from the road or from surrounding properties.*
- ☐ *Convenience & safety of vehicular and pedestrian movement within the site, location of driveway openings in relation to traffic and/or adjacent streets and adequacy & arrangement of parking & loading spaces.*
- ☐ *Volume of cut or fill*
- ☐ *Soil erosion*
- ☐ *Protection of adjoining premises by provision of storm water management, sound & light barriers, preservation of light & air, and preservation of views*
- ☐ *Protection of water quality*
- ☐ *Number of removed trees of 8" or more in diameter*
- ☐ *Protection & enhancement of important, existing site features, natural or man-made*
- ☐ **Consistency with the Site Development Standards at Section 7.12 of the Bylaws**

<sup>18</sup> <https://malegislature.gov/Laws/GeneralLaws/PartI/TitleVII/Chapter40A/Section9>

<sup>19</sup> <https://malegislature.gov/Laws/GeneralLaws/PartI/TitleVII/Chapter40A/Section11>

<sup>20</sup> [https://www.shirley-ma.gov/sites/shirleyma/files/uploads/special\\_permit\\_and\\_request\\_for\\_public\\_hearing.pdf](https://www.shirley-ma.gov/sites/shirleyma/files/uploads/special_permit_and_request_for_public_hearing.pdf)



Site Plan Review by the Planning Board is required for any of the following:

- All new construction of commercial, industrial, institutional, multi-family, municipal or other non-residential uses.
- Any use requiring a special permit, except for hammerhead lots, accessory apartments, shared residential driveway, low impact development, soil/gravel removal, and infill residential uses.
- All commercial or industrial additions, alterations or reconstruction exceeding 600 gross square feet or requiring a total of ten (10) or more parking spaces to serve both existing and new development, or any change of use requiring ten (10) or more additional parking spaces based only on new development.
- Construction or creation of any new parking lot, or the expansion, or redesign of an existing parking lot with ten (10) or more parking spaces, used or to be used for any non-residential purposes.
- Conversion of an existing single-family dwelling to a multi-family dwelling of three units or more, home specialty retail, residential uses in mixed-use building, or a boarding house with more than one boarder.

Where site plan review is required because the proposed use requires a special permit from the Planning Board, the special permit and site plan review applications shall be a combined submission; the public hearing procedures shall be consolidated and conform to the requirements of Section 8.1, *Special Permits Issued by the Planning Board*; and the special permit decision shall incorporate the site plan review decision. Click [here](#)<sup>21</sup> for the Site Plan Review Application.

### Stormwater Management

The Stormwater Management Control Bylaw was created to control the adverse effects of increased post-development stormwater runoff, flooding and non-point source pollution associated with new development and re-development, and to comply with Shirley's Phase II NPDES Stormwater Permit requirements of the Environmental Protection Agency. It is the underlying intent that proper management of post-development stormwater runoff will:

- Minimize flood damage to public and private property and infrastructure
- Safeguard the public health, safety, environment and general welfare of the public
- Protect water and aquatic resources
- Promote groundwater recharge to protect surface and groundwater drinking supplies

The Planning Board is the Special Permit Granting Authority (SPGA) under the Stormwater Management Control Bylaw and is responsible for coordinating the review, approval and permit process as defined in the bylaw. Other boards and/or departments may participate in the review process as defined in the bylaw or the Stormwater Regulations. The Conservation Agent, DPW Director and the Zoning Enforcement Officer are authorized to act as agents of the SPGA in enforcing this bylaw. A proposed project will be subject to this bylaw if the amount of land disturbed during the project is greater than one (1) acre. The Stormwater Management Permit process can be executed concurrently with other required Planning Board applications. This bylaw can be found in the [Shirley General Bylaws](#)<sup>22</sup>. Click [here](#)<sup>23</sup> for the Stormwater Application.

<sup>21</sup> [https://www.shirley-ma.gov/sites/shirleyma/files/uploads/special\\_permit\\_and\\_request\\_for\\_public\\_hearing.pdf](https://www.shirley-ma.gov/sites/shirleyma/files/uploads/special_permit_and_request_for_public_hearing.pdf)

<sup>22</sup> [https://www.shirley-ma.gov/sites/shirleyma/files/uploads/general\\_town\\_bylaws.pdf](https://www.shirley-ma.gov/sites/shirleyma/files/uploads/general_town_bylaws.pdf)

<sup>23</sup> [https://www.shirley-ma.gov/sites/shirleyma/files/uploads/stormwater\\_application.pdf](https://www.shirley-ma.gov/sites/shirleyma/files/uploads/stormwater_application.pdf)

## Board of Health

The Board of Health is a three-member elected board responsible for the protection of public health, the control of disease, the promotion of sanitary living conditions, and the protection of the environment from damage and pollution. It is important to obtain Board of Health regulations applicable to your project very early in the design phase of development. The Board of Health and the Nashoba Associated Boards of Health Agent enforce the state and local health and environmental codes in Shirley. Among the many permits and certificates the Board of Health issues are those for wells and septic systems, swimming pools, drainage and other groundwater issues.

## Septic Systems

Shirley has limited public sewer and public water systems. Therefore, most projects need to obtain a permit from the Board of Health for an approved sanitary system for wastewater disposal, and a well to supply water. The Board of Health reviews and approves plans for wells, septic systems or any other wastewater disposal method based on the Health Agent's recommendation. The Health Agent coordinates with the Planning Board and Conservation Commission on placement of septic systems and wells in new subdivisions and near wetlands.



For new buildings, an approved septic system and well are necessary before a building permit can be issued. The first step is soil evaluation. The second step is to determine if the soil is suitable for a septic system. This is done by a percolation test (or "perc" test) to evaluate the rate at which water seeps into the ground.

A first test, called a deep hole test (soil evaluation) is to determine the groundwater level. If the groundwater is too high, a septic system cannot be located on the lot. Perc tests must be performed by an engineer and witnessed by the Health Agent. Perc tests and soil evaluation testing must be scheduled with the Board of Health Agent. Groundwater determination shall be between March 1<sup>st</sup> and May 1<sup>st</sup> unless otherwise approved by the Board of Health.

For additions to existing structures, the Board of Health must determine whether the septic system can accommodate any additional flow that may be generated. If not, a new system may be required. In the case of failed systems serving an existing house, the Board may approve waivers from its regulations as long as the regulations are met to the maximum extent feasible. See the Sewer Commission Section for tie-in to Shirley's Sewer System.

[Nashoba Associated Boards of Health Common Applications](http://www.nashoba.org/environmental/common-applications-forms)<sup>24</sup>

[State Septic Systems/Title V Information](https://www.mass.gov/septic-systems-title-5)<sup>25</sup>

## Conservation Commission

The Shirley Conservation Commission is a seven-member volunteer board appointed by the Board of Selectmen that is responsible for administering the [Massachusetts Wetlands Protection](#)

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<sup>24</sup> <http://www.nashoba.org/environmental/common-applications-forms>

<sup>25</sup> <https://www.mass.gov/septic-systems-title-5>

[Act<sup>26</sup>](#), [Massachusetts Wetlands Regulations<sup>27</sup>](#) and the [Shirley Non-Zoning Wetland Bylaw<sup>28</sup>](#). The Conservation Commission also participates in the permitting process of the Planning Board and the Zoning Board of Appeals by commenting on applications submitted as part of the subdivision, special permit, and site plan review processes. The Massachusetts Department of Environmental Protection through the Massachusetts Wetlands Protection Act (the Act) authorizes the Conservation Commission to administer the Act locally for the DEP. The DEP only becomes involved in the process to assign a case number to applications submitted and to act as the appeal authority in the case of an appeal of the Conservation Commission's decision.

The intended purpose of the Act is to protect the public and private water supplies, surface and groundwater, wildlife habitats, and flood prone areas. Wetlands serve to buffer and provide natural storage for floodwaters and are recharge areas for groundwater aquifers. Wetlands are land areas that contain surface water all or part of the time, as well as some adjacent land areas. Legally the term includes not only areas we typically think of as wetlands, such as cattail marshes and red maple swamps, but also intermittent streams, floodplains, and other areas that may be dry for a significant portion of the year. The Act specifically regulates activities in or near these areas. The most commonly regulated wetlands are bordering vegetated wetlands (BVWs), which are wetlands that share a border with a stream, pond, or lake.



Any proposed activity or project that will “remove, fill, dredge, or alter” a wetland resource area or the 100-foot buffer zone associated with a wetland resource area must obtain a permit from the Conservation Commission. The term “alter” includes, but is not limited to, any development, construction, destruction of vegetation, any change in drainage characteristics or flow patterns, and any change in the groundwater. Examples of resource areas are the 200-foot riverfront area, a marsh, a floodplain, a woody swamp or a vernal pool. The riverfront area and floodplain do not have buffer zones associated with them. Please contact the Conservation Commission office if you have any questions regarding wetland issues or if you are uncertain whether you should file, particularly if you are a new homeowner.

Shirley's Non-Zoning Wetland Bylaw requires a 25-foot-wide undisturbed, vegetated strip of naturally occurring plant species maintained between a wetland resource area and any proposed activities. In addition, no structures shall be permitted within 40 feet of any resource area in order to provide for the 25-foot buffer and safe and adequate access around said structures. The purpose of the 25-foot undisturbed strip is to filter out pollutants and sediment before they reach waterways, to help with floodwater absorption, and to support wildlife habitat. It is important for a project proponent to determine the location of any wetland resource areas as a first step in determining project locations.

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<sup>26</sup> <https://malegislature.gov/Laws/GeneralLaws/PartI/TitleXIX/Chapter131/Section40>

<sup>27</sup> <https://www.mass.gov/files/documents/2016/08/vy/310cmr10a.pdf>

<sup>28</sup> <https://www.shirley-ma.gov/sites/shirleyma/files/uploads/nzwlby.pdf>

The [Conservation Commission's page<sup>29</sup>](#) on the Town of Shirley website features basic information and links to various conservation resources, as well as a link to the [State forms<sup>30</sup>](#) needed to apply for permits. Below is a brief description of the forms that may be required for submission to the Conservation Commission:

#### Request for Determination of Applicability

This application requests the Conservation Commission to determine if the proposed work or property is subject to the Act or the Shirley Non-Zoning Wetland Bylaw. For smaller projects, the Conservation Commission may also determine if the work can be done in a manner that will not negatively impact the resource area. The applicant is responsible for providing the information required for the review of this application to the Conservation Commission. The submittal of a complete and accurate description of the site and project will minimize requests for additional information by the Conservation Commission, which may result in an unnecessary delay in the issuance of a Determination of Applicability.

Upon receiving a Request for Determination of Applicability, the Conservation Commission must schedule a public meeting within 21 days. This public meeting must be advertised in a local newspaper (at the expense of the applicant) at least five (5) days prior to the meeting. The Conservation Agent or Conservation Commission members may wish to visit the location of the project before the public meeting. At the public meeting, the Conservation Commission will review the facts related to the proposed work and make a determination as to whether or not the project falls under the jurisdiction of the Act. The public must be given an opportunity to provide input at these meetings.

The Conservation Commission's determination is usually made and announced at the same meeting, although the Conservation Commission does have 21 days to make their determination and will sometimes continue discussion to a later public meeting. In response to a Request for Determination of Applicability, the Commission may issue a Determination of Applicability as one of the following decisions:

- **Positive Determination:** The proposed work or property is subject to the Act and/or Shirley Non-Zoning Wetlands Bylaw and requires the filing of a Notice of Intent
- **Negative Determination:** The proposed work is not subject to the Act and/or Shirley Non-Zoning Wetlands Bylaw.
- **Negative Determination with Conditions:** The proposed work is within the 100-foot buffer zone and will not adversely impact the resource area if specified conditions are adhered to.

#### Notice of Intent

This application provides the Conservation Commission with a detailed description of proposed work that may impact a resource area or buffer zone. The Request for Determination of Applicability step can be skipped if the applicant already knows the proposed project is subject to the Act. In response to a Notice of Intent, the Conservation Commission may issue an Order of Conditions permitting the proposed work with conditions to prevent significant adverse impacts to a resource area. The Conservation Commission may deny the project because it cannot be performed in a manner that prevents negative impacts to a wetland resource area.

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<sup>29</sup> <https://www.shirley-ma.gov/conservation-commission>

<sup>30</sup> <https://www.mass.gov/lists/wetlands-permitting-forms>

To obtain an Order of Conditions, a project proponent must submit an application to the Conservation Commission and the Department of Environmental Protection (DEP). The applicant is responsible for providing the information required for the review of this application to the Conservation Commission. The submittal of a complete and accurate description of the site and project will minimize requests for additional information by the Conservation Commission that may result in a delay in the issuance of an Order of Conditions.


Upon receiving a Notice of Intent, the Conservation Commission must schedule a public hearing within 21 days. The hearing must be advertised in a local newspaper (at the expense of the applicant), and all abutters within 100 feet of the property on which the work is being done must be notified in writing by the applicant. Before the public hearing, the Conservation Commission members review the Notice of Intent and its supporting material in preparation for their evaluation of the project. The Conservation Commission may require an expert to review the Notice of Intent and recommend conditions. An expert agreeable to both the applicant and the Conservation Commission is paid by the Commission with funds provided by the applicant.

At the public hearing, the Conservation Commission will review proof of abutter notification provided by the applicant, question the applicant, and review the Notice of Intent and its supporting documents to evaluate the project's likely impact on the resource area. The public must be given an opportunity to make comments and ask questions at this hearing. Based on this discussion and review, the Conservation Commission may determine that more information is needed before it can reach a decision. They may then require the applicant to provide further information and continue the hearing to a later date. The hearing may not be continued beyond 21 days without the permission of the applicant; however, if the applicant refuses the Conservation Commission's request for more information, the Commission may deny the permit, stating insufficient information was supplied to evaluate the project.

If the Conservation Commission determines that it has sufficient information, it has 21 days to issue or deny a permit for the work, although it may decide to make the decision right away. The Conservation Commission may decide that the proposed work does not meet the requirements of the Act and deny the permit. This decision may be appealed by the applicant to the DEP.

The Conservation Commission may also decide that the proposed work will not endanger the nearby wetlands as long as the work proceeds subject to certain conditions. If this is their determination, they issue an Order of Conditions, which is the permit.

The Order of Conditions lists any conditions the Conservation Commission is placing on the work in order to protect a resource area. There is a 10-day appeal period before the work may proceed. During this time, the Conservation Commission's decision



**Massachusetts Department of Environmental Protection**  
Bureau of Resource Protection - Wetlands  
**WPA Form 5 – Order of Conditions**  
Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:  
MassDEP File # \_\_\_\_\_  
eDEP Transaction # \_\_\_\_\_  
City/Town \_\_\_\_\_

**A. General Information**

Please note: This form has been modified with added space to accommodate the Registry of Deeds Requirements

1. From: Conservation Commission

2. This issuance is for (check one):  
☐ Order of Conditions    ☐ Amended Order of Conditions

3. To: Applicant:

Important: When filling out forms on the computer, use only the tab key to move your cursor - do not use the return key.

4. Property Owner (if different from applicant):

a. First Name \_\_\_\_\_ b. Last Name \_\_\_\_\_  
 c. Organization \_\_\_\_\_  
 d. Mailing Address \_\_\_\_\_  
 e. City/Town \_\_\_\_\_ f. State \_\_\_\_\_ g. Zip Code \_\_\_\_\_

5. Project Location:

a. Street Address \_\_\_\_\_ b. City/Town \_\_\_\_\_  
 c. Assessors Map/Plot Number \_\_\_\_\_ d. Parcel/Lot Number \_\_\_\_\_  
 Latitude and Longitude, if known: d. Latitude \_\_\_\_\_ e. Longitude \_\_\_\_\_

may be appealed by the applicant, an abutter, any affected individual, or any 10 citizens of the town.

### Abbreviated Notice of Resource Area Delineation (ANRAD)

The Abbreviated Notice of Resource Area Delineation (ANRAD) provides a procedure for an applicant to confirm the delineation of any wetlands located on a property. The ANRAD provides a procedure for an applicant to confirm the delineation of a Bordering Vegetated Wetland (BVW). If an ANRAD is filed for a BVW delineation, confirmation of other resource areas may also be requested, provided the other resource area boundaries are identified on the plans which accompany the BVW boundary delineation.

The filing of an ANRAD is optional and is typically completed as the first step in a large subdivision. No work is proposed on the ANRAD, only resource area delineation verification. The Conservation Commission will perform one or more site visits to evaluate the accuracy of the resource area delineation. Once an ANRAD is approved, the Conservation Commission will issue an Order of Resource Area Determination (ORAD) verifying what resource areas are present and where their boundaries are.

### Habitat Evaluation Form

If a proposed project is within an [Estimated Habitat of Rare Wildlife](#)<sup>31</sup> and a Notice of Intent (NOI) is required, a copy of the NOI must be sent to the Natural Heritage and Endangered Species Program (NHESP) for review in addition to the Conservation Commission. Unless the proposed activities are [exempt](#)<sup>32</sup> from 21 CMR 10.18 through 10.23, you will also need to file under the [Massachusetts Endangered Species Act](#)<sup>33</sup> (MESA).

If it is determined that the proposed project lies within a rare species habitat and is not exempt, the project proponent is required to submit a [MESA Project Review checklist](#)<sup>34</sup>, filing fee, and the required information outlined on the checklist to the [Natural Heritage and Endangered Species Program](#)<sup>35</sup> so that a determination can be made regarding whether the proposed project will have an impact on the endangered species or their habitat. In addition, a [Habitat Evaluation Form](#)<sup>36</sup> is required to be filed with the Conservation Commission at the time an NOI is filed if the proposed project is above certain thresholds. To determine thresholds, please refer to the [Massachusetts Wildlife Habitat Protection Guidance for Inland Wetlands](#)<sup>37</sup>

### Request for Certificate of Compliance

Once a project is completed and all of the conditions in the Order of Conditions have been satisfied, the project proponent must apply for a Certificate of Compliance. The project proponent is required to have an engineer provide a statement that the project has been completed according to the approved plan and submit this statement along with a completed Request for Certificate of Compliance to the Conservation Commission. The Conservation

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<sup>31</sup> <https://www.mass.gov/service-details/regulatory-maps-priority-estimated-habitats>

<sup>32</sup> <https://www.mass.gov/service-details/exemptions-from-review-for-projectsactivities-in-priority-habitat>

<sup>33</sup> <https://www.mass.gov/service-details/ma-endangered-species-act-mesa-overview>

<sup>34</sup> [https://www.mass.gov/files/documents/2017/09/11/MESAChecklist\\_form.pdf](https://www.mass.gov/files/documents/2017/09/11/MESAChecklist_form.pdf)

<sup>35</sup> <https://www.mass.gov/orgs/masswildlifes-natural-heritage-endangered-species-program>

<sup>36</sup> <http://www.mass.gov/eea/agencies/massdep/water/watersheds/massachusetts-wildlife-habitat-protection-guidance-for-inland-wetlands.html>

<sup>37</sup> <http://www.mass.gov/eea/agencies/massdep/water/watersheds/massachusetts-wildlife-habitat-protection-guidance-for-inland-wetlands.html>



Commission will have the project inspected to confirm completeness and will provide a Certificate of Compliance to the permittee which must be recorded at the Registry of Deeds. Once this is filed, the case is considered closed. If this step is not completed by the project proponent, the open Order of Conditions will stand on the title to the property and issues may arise if the property is sold.

### Forest Cutting Plan

Under the [Massachusetts Forest Cutting Practices Act<sup>38</sup>](http://www.mass.gov/eea/agencies/dcr/conservation/forestry-and-fire-control/chapter-132-ma-forest-cutting-practices-act.html), the Conservation Commission reviews and comments on Forest Cutting Plans from public and private landowners who propose to harvest more than 25,000 board feet or 50 cords of timber on any property. An estimate of fifty 22-inch diameter trees would be needed for 50 cords. The Massachusetts Department of Conservation and Recreation reviews and approves Forest Cutting Plans filed by landowners. Filing with the Conservation Commission is for local informational purposes and validation of local wetland resources.

If a homeowner would like to cut down a few trees, they should consult with the Conservation Commission in advance since it is illegal to cut down trees in a wetland without a permit. Some tree cutting may be exempt and should be confirmed with the Conservation Commission.

### Zoning Board of Appeals (ZBA)

All matters which come before the Zoning Board of Appeals are initiated by residents and businesses seeking relief from the Zoning Bylaws. The ZBA is a five-member volunteer board appointed by the Board of Selectmen and acts as a quasi-judicial body deciding whether or not to vary from the Shirley Protective Zoning Bylaws. The ZBA is also responsible for hearing administrative appeals of decisions made by the Building Commissioner and may also review and decide applications for comprehensive 40B permits. The ZBA may also initiate the process to amend the local zoning bylaw or ordinance.

Like most rules, there are sometimes circumstances where the literal application or enforcement of the Shirley Protective Zoning Bylaws creates a hardship or otherwise may be considered “unfair.” There are provisions that allow deviations from the Zoning Bylaw. Such deviations are known as variances and special permits. The ZBA is charged with deciding when a variance is warranted. Under state law, before a variance can be granted, the ZBA must find that “circumstances relating to the soil conditions, shape, or topography of such land or structures and especially affecting such land or structures but not affecting generally the zoning district in which it is located, a literal enforcement of the provisions of the ordinance or bylaw would involve substantial hardship, financial or otherwise, to the applicant or petitioner, and that relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of such ordinance or bylaw.” This is a stringent standard, and it is generally up to the applicant to document that his/her situation meets these requirements.

Another type of exception is called a special permit. Special permits differ from variances in that they are expressly authorized in the bylaw and the conditions under which they can be granted are specified. See the Use Permit Matrix in Appendix C for special permits that the ZBA is

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<sup>38</sup> <http://www.mass.gov/eea/agencies/dcr/conservation/forestry-and-fire-control/chapter-132-ma-forest-cutting-practices-act.html>

responsible for. Both variances and special permits require notification of abutters and a public hearing, but vary in their procedural time periods (See Processes Section). The ZBA may grant relief of some nature to the applicant, usually with conditions attached to the special permit or variance. These conditions are designed to make the proposal less intrusive to neighbors or to ensure compliance with what the ZBA perceives to be important limitations on an applicant's proposal. [Zoning Board of Appeals Application for Special Permit, Appeal, Variance or 40B Permit](#)<sup>39</sup>

## Board of Assessors

As part of the application process with the Conservation Commission, Board of Selectmen, Planning Board and Zoning Board of Appeals, the applicant is required to obtain a certified abutters list from the Assessor's Office in order that appropriate state laws and regulations are followed regarding notification of public hearings. Requests for certified abutter's lists must be accompanied by a \$25.00 fee and include the specific location of the property and within how many feet abutters are needed (direct, 100 feet, 300 feet), which varies with each type of permit applied for. Please allow a period of up to 10 business days for the Assessor's Office to complete these requests upon receipt of payment.

## Board of Selectmen

### Soil and Gravel Removal

The Board of Selectmen is the permit granting authority for any soil or gravel removal in Shirley. The application and all required information is submitted to the Board of Selectmen who shall refer all engineered plans and calculations for soil removal permits for removing in excess of 5,000 cubic yards per year to an independent consultant for review. Article XI, Soil Removal Bylaw can be found in the Shirley [General Bylaws](#)<sup>40</sup>, and the [Soil Removal Regulations](#)<sup>41</sup> contain specific procedures that will be followed. [Gravel Removal Application](#)<sup>42</sup>

## Department of Public Works

The Department of Public Works (DPW) is responsible for road and street maintenance, care and maintenance of town trees, [snow and ice removal](#)<sup>43</sup> and maintenance of Town-owned property. The DPW also has an advisory role whenever development activities, whether residential, commercial or industrial, may have an impact on Town roads, property, or services.

### Driveway Permit

A driveway permit application does not need to be submitted if simply applying a liquid sealant. A permit does need to be submitted if you are applying a bituminous material (asphalt) to the surface. A permit is not needed for patching of a small area using bituminous material. Consultation with the Conservation Commission may also be required if paving is being performed in or near a wetland resource area. [Driveway Permit Application](#)<sup>44</sup>

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<sup>39</sup>[https://www.shirley-ma.gov/sites/shirleyma/files/uploads/zba\\_application.pdf](https://www.shirley-ma.gov/sites/shirleyma/files/uploads/zba_application.pdf)

<sup>40</sup> [https://www.shirley-ma.gov/sites/shirleyma/files/uploads/general\\_town\\_bylaws.pdf](https://www.shirley-ma.gov/sites/shirleyma/files/uploads/general_town_bylaws.pdf)

<sup>41</sup> <https://www.shirley-ma.gov/sites/shirleyma/files/uploads/soil.pdf>

<sup>42</sup> <https://www.shirley-ma.gov/sites/shirleyma/files/uploads/gravel.pdf>

<sup>43</sup> <https://www.shirley-ma.gov/department-public-works/pages/parking-ban-snow-removal>

<sup>44</sup> [https://www.shirley-ma.gov/sites/shirleyma/files/uploads/driveway\\_permit\\_2017.pdf](https://www.shirley-ma.gov/sites/shirleyma/files/uploads/driveway_permit_2017.pdf)



## Utility Installations

If the roadway near a project needs to be dug up to install utilities, a [Road Crossing & Pavement Cut Permit](#)<sup>45</sup> must be obtained from the DPW and in the case of a sewer hook-up, the Sewer Commission also needs to sign off on the permit.

## Sewer Commission

The Sewer Commission and Sewer Superintendent approve connections to the Shirley Sewer System. The Shirley Sewer Service Area can be seen on a plan entitled "Town of Shirley, Massachusetts, Wastewater Collection System, Figure I," prepared by Woodard and Curran, dated January 2000, a copy of which is on file in the Town Clerk's office. A project proponent should review the [Sewer Rules & Regulations](#)<sup>46</sup> and use the application within those regulations to apply to the Sewer Commission for connection to the Shirley Sewer System. In addition, there are [sewer betterments](#)<sup>47</sup> charged by the Board of Assessors for those properties that belong to the Shirley Sewer System.

All commercial or industrial entities connected to the Shirley Sewer System must register with the [Shirley Industrial Pretreatment Program](#)<sup>48</sup>. No person shall discharge any process discharge without a Wastewater Discharge Permit.

## Fire Department

The Fire Department reviews site plans and other permit applications, whether residential, commercial or industrial, for adequate roadway emergency access requirements, public safety and fire protection. The Fire Department issues permits for a variety of circumstances including, but not limited to, underground storage tanks, fire suppression systems, and storage of flammable and/or hazardous materials.

## Police Department

The Police Department has an advisory role in the development process, reviewing site plans and other applications for any issues or concerns with regard to public safety, whether it be residential, commercial or industrial development. The Department may be asked to provide input by one or more town boards or commissions with a direct role in the planning and/or permitting process.

## Town Clerk

The Town Clerk is the repository for all applications and decisions made by any of the boards or commissions in the Town. Once appeal periods for permits expire, certified copies of decisions can be obtained from the Town Clerk for recording at the Registry of Deeds.

## Shirley Water District

For any questions or concerns regarding public water supply or hook-up, please contact the [Shirley Water District](#)<sup>49</sup> which is separate entity from the Town of Shirley.

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<sup>45</sup><https://www.shirley-ma.gov/sites/shirleyma/files/uploads/roadcuts.pdf>

<sup>46</sup> <https://www.shirley-ma.gov/sites/shirleyma/files/uploads/rules.pdf>

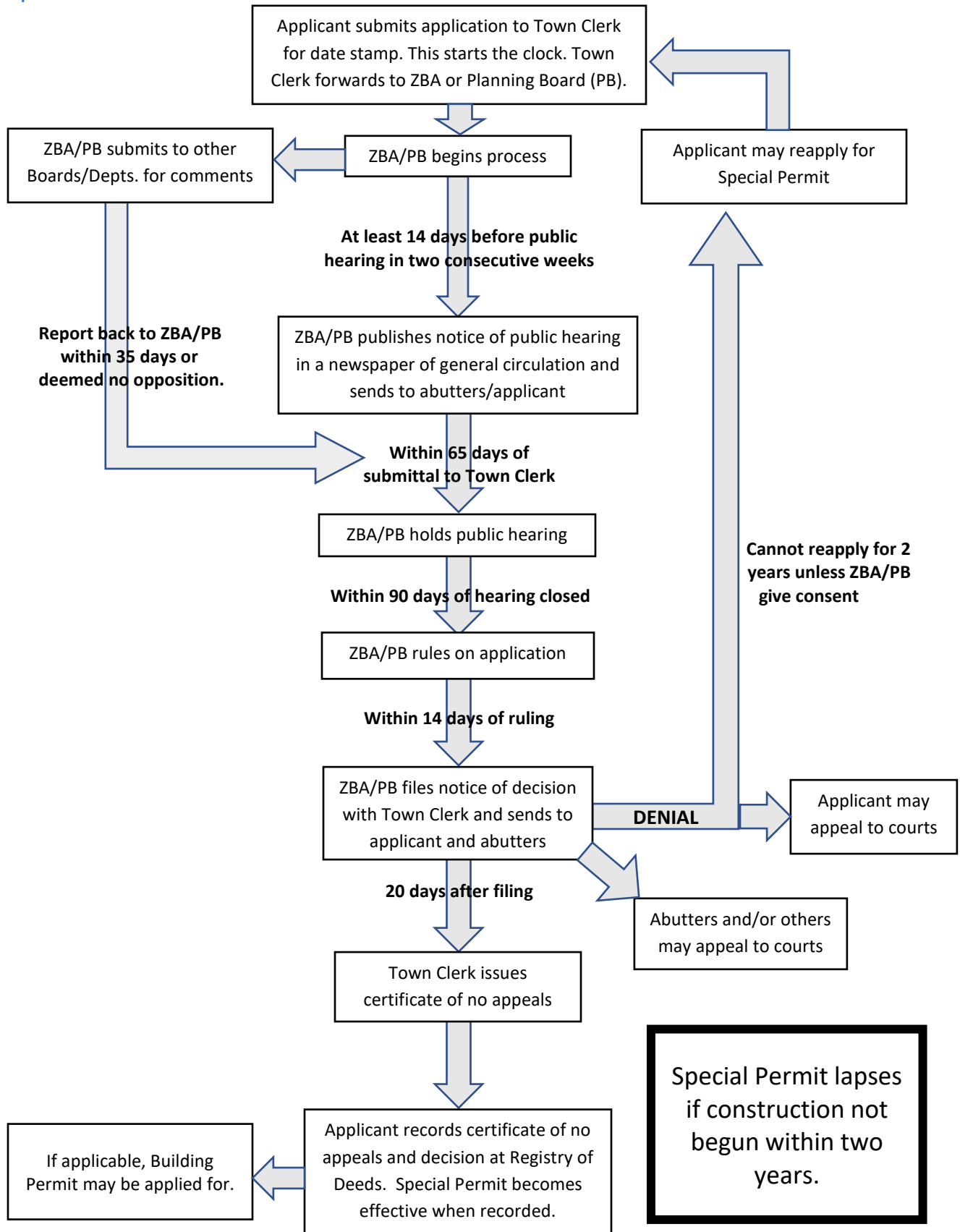
<sup>47</sup><https://www.shirley-ma.gov/sites/shirleyma/files/uploads/betterments.pdf>

<sup>48</sup> <https://www.shirley-ma.gov/sites/shirleyma/files/uploads/ipp.pdf>

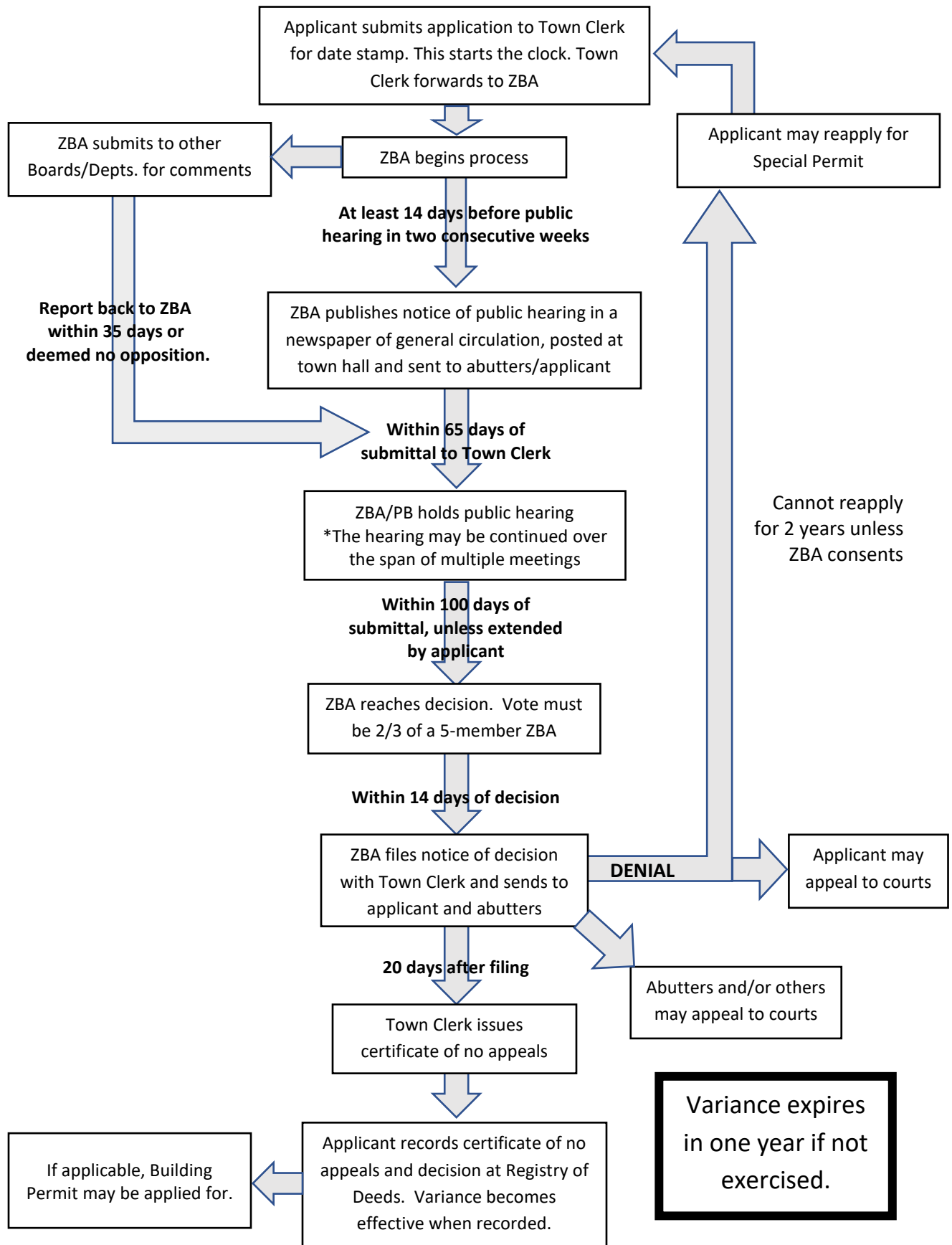
<sup>49</sup> <http://www.shirleywater.com/>

## THE PROCESSES

### Special Permit Process



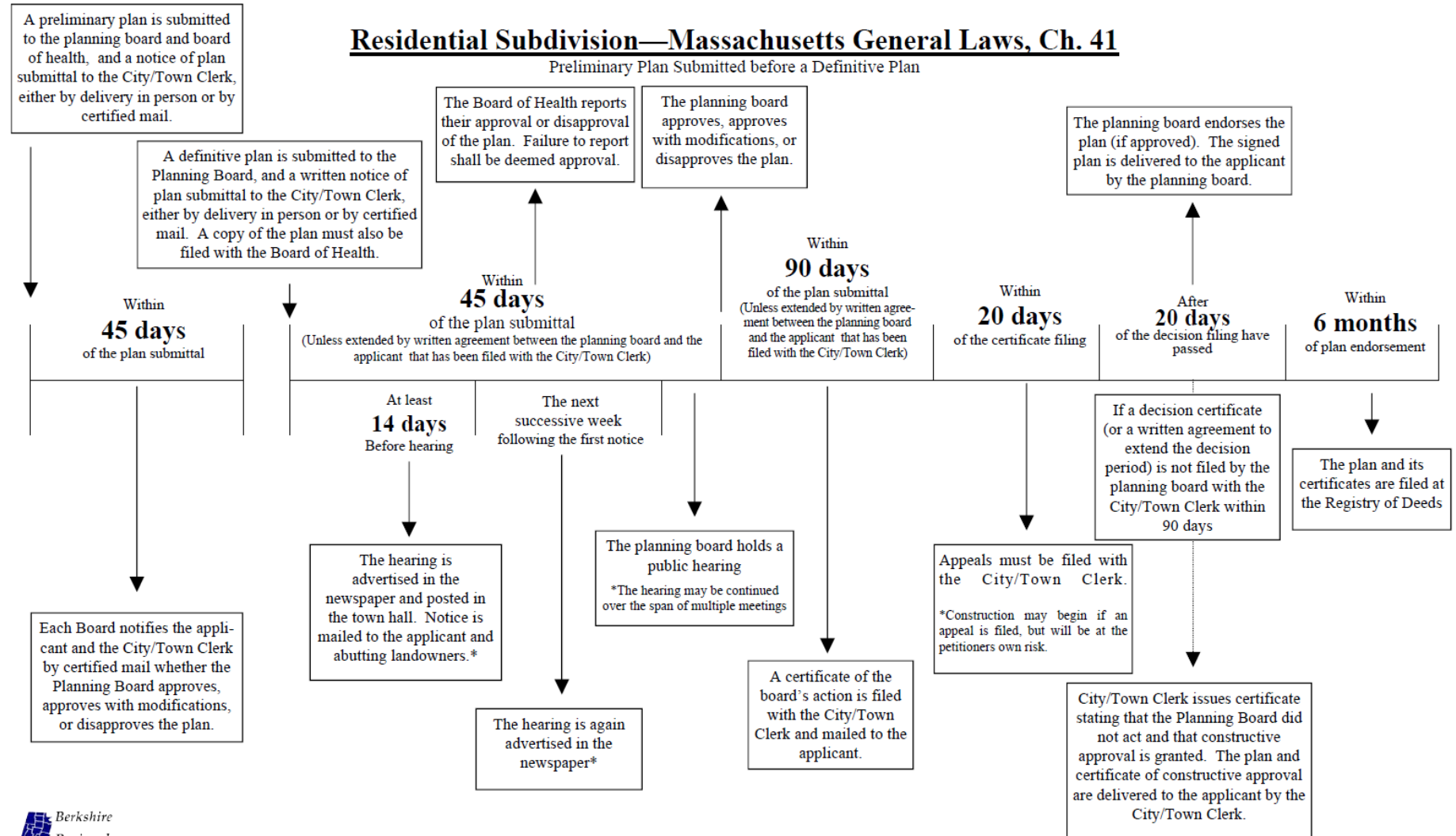
## Variance Process



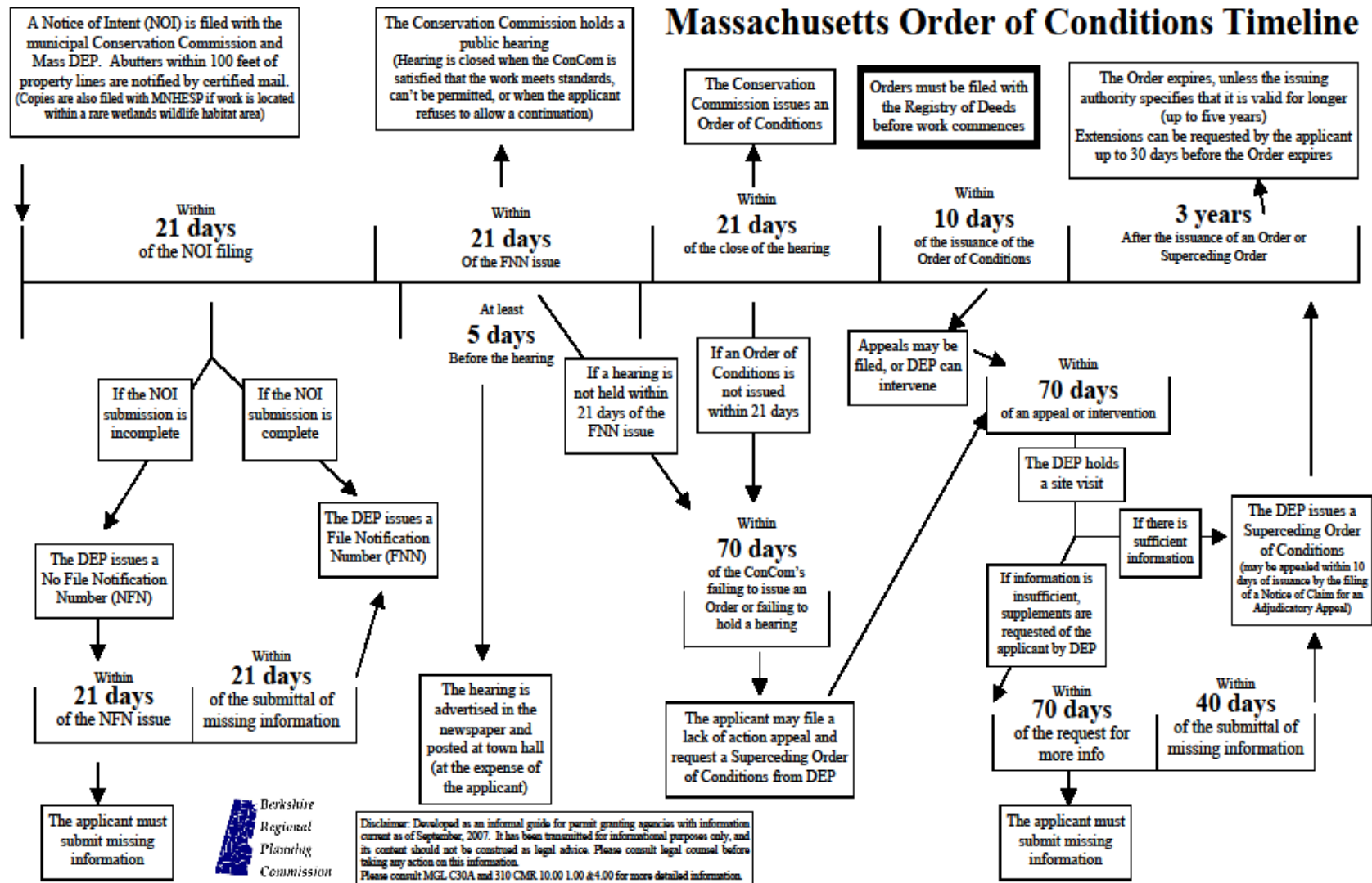
## Subdivision Approval Process

### Residential Subdivision—Massachusetts General Laws, Ch. 41

Preliminary Plan Submitted before a Definitive Plan



## Notice of Intent Process



## FEDERAL AND STATE PERMITS

The Applicant may need to apply for one or more permits from the State or Federal government. This list is not exhaustive, but the most common permits are listed below.

*Applicants are directed to consult individual State/Federal Agencies on specifics of projects, as certain thresholds and/or permitting requirements may have changed since the printing of this Permitting Guidebook.*

### Federal Permits and Approvals

NATIONAL ENVIRONMENTAL POLICY ACT, OR “NEPA” requires the preparation of an environmental impact statement (EIS) to assess the impact of major federal action, i.e. projects and programs entirely or partly financed, assisted, conducted regulated or approved by federal agencies, that may have a significant impact on the quality of the human environment. Major federal actions are defined by statutes or determined by agency officials.

CLEAN WATER ACT, SECTION 404 PERMIT requires a project involving the discharge of dredged or fill material into waters of the United States (including federally defined wetlands) to obtain a permit from the Army Corps of Engineers. The permit may be a programmatic general permit, an individual permit or an official letter of permission.

CLEAN WATER ACT, WATER QUALITY CERTIFICATION APPROVAL requires the state to determine whether certain activities meet water quality standards; if they don’t, the Corps of Engineers is prohibited from issuing a Section 404 permit for the activity.

RIVERS AND HARBORS ACT OF 1899, SECTION 10 PERMIT requires a federal permit from the Army Corps of Engineers for dredging, filling or obstruction of navigable waters; the Section 10 permit is often applied for in conjunction with a Section 404 permit.

NATIONAL FLOOD INSURANCE ACT AND FLOOD DISASTER PROTECTION ACT CERTIFICATION requires that banks not make, extend or review any loan for improved real estate located in an area having flood hazards, and in which flood insurance is available, unless the building securing the loan is covered by flood insurance. This usually requires architectural or engineering review and certification of building plans to the lender.

CLEAN AIR ACT PERMITS OR APPROVALS may be required directly from the Environmental Protection Agency for certain emissions and hazardous air pollutants from new sources of these regulated air pollutants; most of the federal requirements, however, are incorporated by Massachusetts in its State Implementation Plan, or SIP (see State Clean Air Act).

NATIONAL HISTORIC PRESERVATION ACT SECTION 106 REVIEW requires that certain federally assisted, permitted and licensed activities that might have an adverse effect on properties listed with or eligible for listing with the National Register of Historic Places be reviewed concerning that effect and its consequences; Section 106 review is accomplished by submitting a Project Notification Form to the Historic Commission.

ENVIRONMENTAL PROTECTION AGENCY STORMWATER NOTICES OF INTENT AND/OR NPDES PERMITS are required for stormwater discharges associated with certain activities. Industrial activity was recently redefined to include “construction activity including clearing, grading and excavation activities except operations that result in the disturbance of less than five (5) acres of total land area, which is part of a larger common plan of development or sale”. The project owner and operator are required to file a Notice of Intent and pollution abatement plan with the Environmental Protection Agency.

### State Permits, Approvals and Licenses

MASSACHUSETTS ENVIRONMENTAL POLICY ACT OR “MEPA” requires state agencies to evaluate the environmental impact of all projects or activities undertaken by state agencies, and of private projects seeking state funding or permits. An Environmental Notification Form must be filed if the project meets one or more of the thresholds specified in the regulations, whereas certain activities automatically require the preparation of an Environmental Impact Report.

MASSACHUSETTS CLEAN WATER ACT, SEWER EXTENSION/CONNECTION PERMITS are required for the connection of a project to a sewer unless exempted. There are pretreatment requirements for industrial users, which must be coordinated with the permitting requirements of the Shirley Industrial Pretreatment Program.

MASSACHUSETTS CLEAN WATER ACT, SURFACE WATER AND/OR GROUNDWATER DISCHARGE PERMITS Surface Water Discharge Permits administered jointly by the federal Environmental Protection Agency and the Massachusetts Department of Environmental Protection, are required for point source discharge to U.S. Waters and application should be made simultaneously to both agencies. A permit may also be required for stormwater discharges where runoff is substantially contaminated or if contamination exists because the discharge is located within an industrial area or is associated with industrial activity. If the project is in an unsewered area, a disposal Works Construction Permit must be obtained from the local Board of Health in accordance with Title 5 of the State Environmental Code. If a sewage disposal system with capacity in excess of 15,000 gallons per day will be constructed; a groundwater discharge permit must also be obtained.

WATERWAYS, GREAT PONDS AND TIDELANDS CONSTRUCTION LICENSE must be obtained from the Department of Environmental Protection, Wetlands and Waterways Division, for any construction below the high-water line of state waterways, great ponds (ponds over ten (10) acres in their natural state) and tidelands.

MASSACHUSETTS CLEAN AIR ACT APPROVAL must be obtained in writing from the Department of Environmental Protection for the plans, specifications, and proposed operating procedures for the Construction, substantial reconstruction or alteration of any stationary source of air pollution, unless specifically exempted. Stationary sources emitting certain pollutant levels must register with DEP as well. Anyone constructing or demolishing a commercial building, or residential building with 20 or more units, must notify DEP at least ten (10) working days prior to starting work, if it will create emissions that cause or Contribute to a condition of air pollution.

MASSACHUSETTS ENDANGERED SPECIES ACT prohibits taking possession of any plant or animal species listed in the federal Endangered Species Act, or the alteration of a significant habitat. A

project developer should review the list of endangered species from the Division of Fisheries and Wildlife, and habitat maps available for inspection at the Town of Shirley Conservation Commission office.

HAZARDOUS WASTE MANAGEMENT PERMITS may be required from the federal Environmental Protection Agency or state Department of Environmental Protection if any waste generated by the project is hazardous, depending on the types or quantities generated; contact the Town of Shirley Fire Department for information.

MASSACHUSETTS HISTORICAL COMMISSION APPROVAL must be obtained if a designated historical or archeological landmark will be altered by a project undertaken by a state agency or any private party seeking any state funding, permits or licenses for the project.

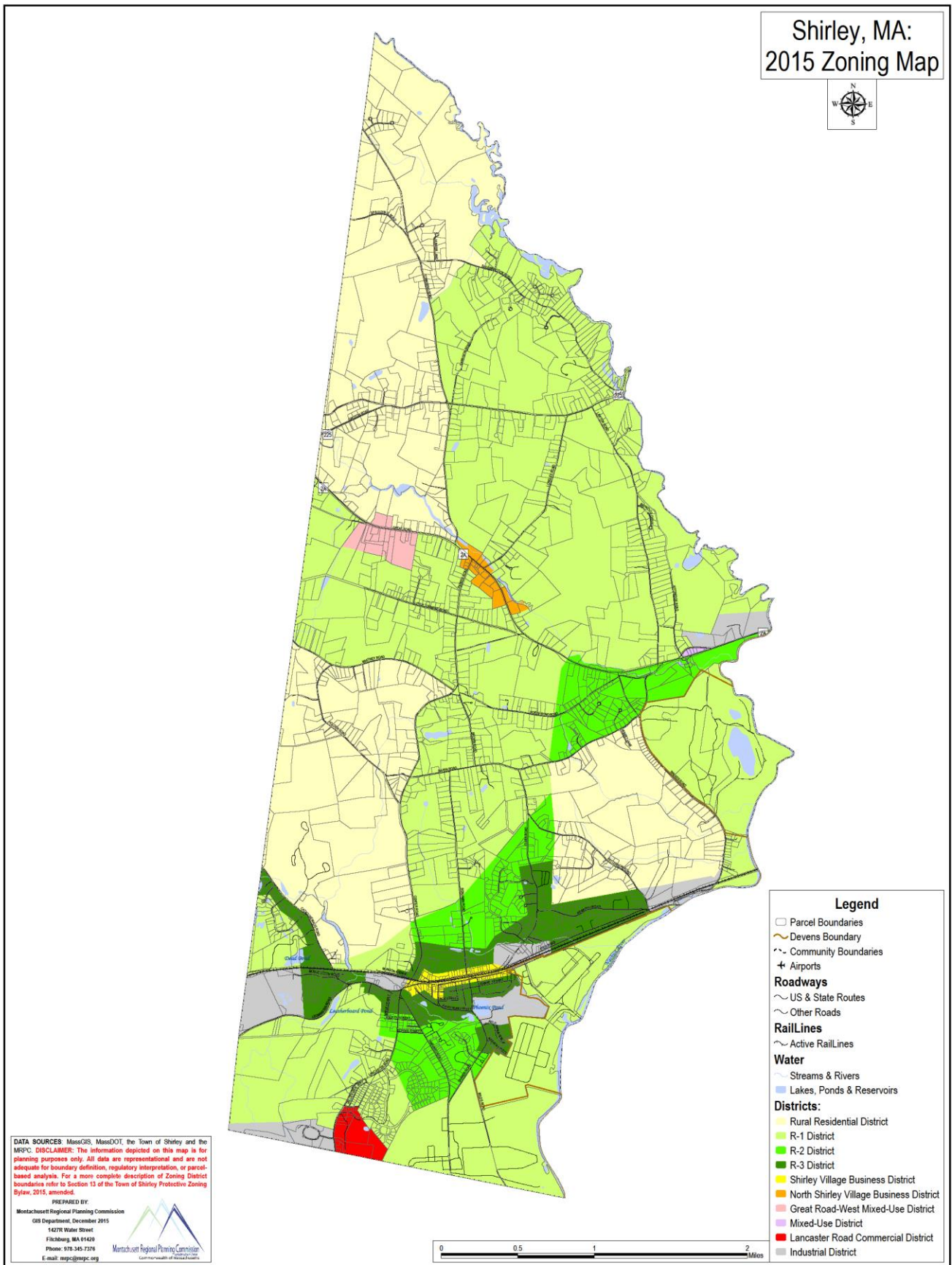
STATE HIGHWAY ACCESS PERMIT must be obtained in writing from the Massachusetts Highway Department if a project will involve the creation, alteration, expansion or substantial impact upon an opening onto a state highway. This includes property which has access directly onto state highways and property which abuts a state highway layout.

PERMIT FOR CONSTRUCTION ON RAILROAD RIGHT-OF-WAYS Massachusetts General Laws, Chapter 40, Section 54A provides that a city or town must obtain the consent of the Secretary of Transportation and Construction prior to the issuance of a building permit for any railroad right-of-way or lands appurtenant. Thereto formerly used by any railroad company in the Commonwealth.



## APPENDIX A

### Shirley Zoning Map



## APPENDIX B

### Permit Matrix

## APPENDIX C

### Use Matrix